

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0675-03
Bill No.: HCS for HB 215, 218, 115 & 83
Subject: Environmental Protection; Natural Resources Department
Type: Original
Date: March 10, 2003
Corrected for mathematical error.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	(\$139,636 to Unknown)	(\$151,626 to Unknown)	(\$155,526 to Unknown)
Total Estimated Net Effect on General Revenue Fund	(\$139,636 to Unknown)	(\$151,626 to Unknown)	(\$155,526 to Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
DNR Dedicated Funds	(Unknown)	(Unknown)	(Unknown)
Solid Waste Management Fund	\$1,038,052	\$2,076,104	\$2,076,104
Total Estimated Net Effect on Other State Funds	(Unknown) to \$1,038,052	(Unknown) to \$2,076,104	(Unknown) to \$2,076,104

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 7 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Federal Funds	(Unknown)	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	(Unknown)	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	(Unknown)	(Unknown)	(Unknown)

FISCAL ANALYSIS

ASSUMPTION

Environmental Protection

Officials from the **Department of Conservation** (MDC) assume the proposed legislation would appear to have no fiscal impact on MDC funds.

Officials from the **Office of Secretary of State** (SOS) assume the bill requires that certain Department of Natural Resources (DNR) rules be no stricter than federal regulations with some exceptions. They assume the bill does not add specific rulemaking and further restricts the rulemaking authority of DNR. SOS officials therefore assume no rules will be promulgated as a result of this bill and thus their office will not be fiscally affected.

Officials from the **Attorney General's Office** assume the AGO would need two Assistant Attorney General IIIs and associated program costs to handle potential litigation if this proposal were to pass. AGO bases this assumption on its experience in handling litigation related to Clean Air regulations which contain a similar limitation on state regulation to the proposed limitations in this proposal. AGO officials assume this proposal extends these rule restrictions to all areas of environmental regulation and would significantly expand the state's vulnerability to litigation

challenging DNR's rulemaking in these areas.

ASSUMPTION (continued)

Officials from the **Department of Health** (DOH) assume this legislation will prohibit DNR from establishing rules that are any stricter than federal laws governing the same environmental area (e.g. solid waste, Clean Air Act, etc.). If the federal law is not sufficient to adequately protect human health and the environment, or the specific circumstances or conditions are not subject to regulation by any applicable federal statute or federal regulation, DNR could regulate to "address the specific circumstance or condition in order to prevent or alleviate the specific harm caused to human health and the environment." The criteria for evaluating this includes health. It is anticipated that DOH would be conducting risk assessments to determine the impact to public health.

Therefore, DOH would request three Environmental Specialist IIIs and associated program costs to implement this legislation. These three positions would be responsible for reviewing site contaminant and offsite information, evaluating site characterization data, determining potential exposure pathways, conducting investigations, documenting reviews as appropriate, and preparing risk assessments to quantify the risk to human health from contaminants. These positions would also be responsible for calculating contaminant concentrations that pose no risk to human health. These concentrations would be used for clean-up or attainment goals. This would require these personnel to remain current on all toxicology data and risk assessment methodologies.

Officials from the **Department of Natural Resources** (DNR) assume additional staff time and resources would be required when promulgating new rules which would be stricter than the federal rule. When promulgating new or revised rules, the Department would be responsible for proving a specific circumstance or condition in the state is causing or has the potential to cause harm to human health or the environment.

DNR has approximately 160 rules which have been promulgated to meet specific Missouri needs that may be considered "stricter than" federal law. The Department estimates it could possibly take between 120 hours and 450 hours per rule to review, document, substantiate, and possibly promulgate revised state rules. Assuming 1,800 available hours per year, it would take approximately 10 FTE (assuming 120 hours per rule) or approximately 40 FTE (assuming 450 hours per rule) to implement this legislation.

The Department assumes additional staff time and resources would be required when promulgating new rules. The Department is unable to determine the number of rules which would be promulgated in later years which would be considered stricter than the federal law.

ASSUMPTION (continued)

These provisions specify that the fiscal notes required by Section 536.200 and 536.205, RSMo, are to contain information of the effects on human health and the environment, economics, pollution prevention, and the effectiveness and cost of reasonably available control methods for the proposed more restrictive rule. The Department assumes additional staff time and resources would be required to meet these criteria; however, the impact is unknown.

In addition, the Department is unable to determine the legal costs associated with challenges to existing rules from the passage of this legislation.

Officials from the **Department of Transportation (DOT)** assume this proposal may cause additional litigation and regulatory compliance costs. The amount of those costs could be significant, and could slow down certain highway construction or improvement costs. However, the fiscal impact cannot be determined until DOT sees how DNR and its regulatory boards and commissions implement their new regulatory authority.

Oversight assumes the DNR will be required to conduct some level of review of the estimated 160 rules that may be stricter than federal rules. Oversight assumes after such a review, any necessary rule changes, or deletions could result in unknown savings, costs, or losses of revenue.

Oversight also assumes there could be unknown costs to the Solid Waste Management Districts due to this proposal as the DNR's current rules relating to Solid Waste could be considered stricter than federal rules.

Additionally, Oversight assumes that until DNR rules need to be changed or established, it appears that the FTE requested by DOH would not be necessary. If DNR rules need to be changed or established and the FTE are deemed necessary to fulfill the requirements of this proposed legislation, the DOH could request these FTE through the budget process.

Permit Violation Notification

Officials from the **Attorney General's Office, Missouri Department of Conservation, Department of Natural Resources, Department of Economic Development and Department of Agriculture** state this proposal would not fiscally impact their agency.

ASSUMPTION (continued)

Waste Tire Fee Extension

Officials of the **Department of Revenue** assume no additional administrative impact. The Department of Revenue currently collects the tax and this proposal extends the end date from January 1, 2004 to January 1, 2011.

Officials from the **Department of Transportation** assume no fiscal impact.

Officials from the **Department of Natural Resources (DNR)** assume the proposed legislation would extend the sunset date on the waste tire fee. The waste tire fee generates about \$2.1 million dollars annually. The DNR assumes the revenue will be used to fund continued removal of illegally dumped tires, educational programs, and grants to end users.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
GENERAL REVENUE FUND			
<u>Cost - Attorney General's Office</u>			
Personal Service (2 FTE)	(\$75,000)	(\$92,250)	(\$94,556)
Fringe Benefits	(\$30,353)	(\$37,334)	(\$38,267)
Expense and Equipment	(\$34,283)	(\$22,042)	(\$22,703)
Total Cost - Attorney General's Office	<u>(\$139,636)</u>	<u>\$151,626</u>	<u>\$155,526</u>
<u>Cost - Department of Natural Resources</u>	(Unknown)	(Unknown)	(Unknown)
Estimated Net Effect on GENERAL REVENUE FUND	<u>#(\$139,636 to Unknown)</u>	<u>(\$151,626 to Unknown)</u>	<u>(\$155,526 to Unknown)</u>
DNR DEDICATED FUNDS			
<u>Cost - Department of Natural Resources</u>			
Personal Services	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>
SOLID WASTE MANAGEMENT FUND			
<u>Income - DNR</u>			
Solid Waste Management Fund - Tire Fees	<u>\$1,038,052</u>	<u>\$2,076,104</u>	<u>\$2,076,104</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
<u>Cost - Solid Waste Management Districts</u>	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

FISCAL IMPACT - Small Business

This proposal could impact small businesses subject to DNR rules.

DESCRIPTION

Environmental Protection

This bill prohibits most rules of the Department of Natural Resources on clean air, clean water, underground storage tanks, hazardous waste management, surface mining, land reclamation, safe drinking water, and solid waste management from being stricter than federal requirements.

In cases where there are either insufficient or no federal guidelines, the department may develop more restrictive rules if there is substantial evidence that an activity will have an adverse impact on public health or the environment and a rule is necessary to prevent or alleviate the impact. Specific findings on the impact and a justification for the proposed rule must be published in the Missouri Register. The rule's fiscal note must also include an assessment of the effectiveness and cost of any reasonably available pollution control methods required by the rule.

The bill also repeals the provision that allows affected parties to appeal decisions of the director to the appropriate board or commission.

Permit Violation Notification

This bill prohibits the Department of Natural Resources from issuing a notice of violation or imposing a fine for failure to file a required permit report on time until the department has notified the permit holder about the delinquent report by registered mail and allowed 30 days for the report to be filed. Notification is not required for permit holders who have previously failed to file two or more reports on time within the past year or four or more reports on time in the last five years. The bill also limits fines for failure to file reports on time to \$500 for first violations.

DESCRIPTION (continued)

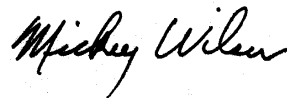
Waste Tire Fee Extension

The waste tire fee will expire on January 1, 2004. This bill extends the fee to January 1, 2011.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Conservation
Department of Health
Department of Natural Resources
Office of Attorney General
Office of Secretary of State
Department of Transportation
Department of Agriculture
Department of Economic Development
Department of Revenue



Mickey Wilson, CPA
Director
March 10, 2003